IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1304 OF 2005

Shri.Bhavarlal R.Doshi and
Ors. ..Applicants

Vs.

State of Maharashtra & Anr. ...Respondents

...

Mr. Atul Tungare Advocate for Applicants
Mr. Subhash Jha i/b Law Global for
Respondent no.3
Mr.Rajesh More A.P.P. for the State

...

CORAM: SMT.V.K.TAHILRAMANI,J.

DATE : JULY 12,2005

P.C.

1. Heard the learned advocate for the applicants, learned advocate for the respondent no.3 original complainant and the learned A.P.P. for the State.

2. The applicant is seeking quashing of complaint filed by respondent no.3 against them before the learned Metropolitan Magistrate, 33rd Court, Ballard Pier Mumbai. The said case is numbered as 373/N/2004. The said complaint was referred to the

police under Section 156(3) of the Cr.P.C. The said complaint was registered at M.R.A. Marg Police Station vide CR No. 58 of 2004. Thereafter, it was transferred to GBCB CID Unit-III EOW, Mumbai and it is numbered as MECR No.24 of 2004. Thus, the applicants are seeking quashing of the complaint as well as the F.I.R. lodged at M.R.A.Marg Police Station.

3. The learned A.P.P. on instructions, states that the police had investigated the matter and have filed the report on 24.3.2005 before the learned Magistrate that 'C' summary may be granted. It is an admitted fact that the complainant has been issued notice in respect of the report wherein 'C' summary is sought for. Looking to these facts and circumstances, it would be appropriate that the Magistrate decides the issue as to whether 'C' summary ought to be granted. If the learned Magistrate grants 'C' summary, the prayer sought for in this petition, would be infructuous. Obviously, the learned Magistrate shall hear the necessary parties and thereafter pass the orders as deemed fit and necessary in accordance with law.

All contentions of the parties are left open.

4. In case, the order of learned Magistrate is adverse to the applicants, the applicants are at liberty to adopt appropriate proceedings.

5. Application is disposed of.

[V.K.TAHILRAMANI,J.]